



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of David Thummel,  
Department of the Treasury

CSC Docket No. 2014-1026

Classification Appeal

ISSUED: FEB - 4 2015

(RE)

David Thummel appeals the attached September 20, 2013 and September 4, 2014 decisions of the Division of Classification and Personnel Management (CPM) which found that his position with the Department of the Treasury is properly classified as Auditor 2, Taxation. He seeks an Auditor 1, Taxation job classification in this proceeding.

By way of background, Mr. Thummel received a regular appointment to the title Auditor 2, Taxation on December 9, 2006. This position is located in the Division of Taxation, Audit Activity, Individual Tax Audit Branch, Team B, and does not have supervisory responsibilities. Mr. Thummel's position reports to a Supervising Auditor, Taxation. Mr. Thummel submitted a request for a classification review which was received by CPM on April 9, 2013, and a classification review of his Position Classification Questionnaire (PCQ) and related documentation was performed.

The September 20, 2013 classification review found that Mr. Thummel's assigned duties and responsibilities, as detailed in CPM's decision, were commensurate with the title of Auditor 2, Taxation. On appeal, Mr. Thummel asserts that he is performing duties in accordance with the Auditor 1, Taxation title. Specifically, he claims he is an "acting" Auditor 1, Taxation, and performs supervisory duties. He states that he reviews, revises and approves audit reports for auditors who are not trainees. He also manages the backlog, organizes and assigns casework for the team, and monitors the timely completion of audits and reports on the backlog. He provides advice and assistance, and has helped the supervisor to change the policy on credit for taxes paid to other jurisdictions for

partnership income. He states that he provides some feedback on the performance and conduct of auditors for performance reviews. He formally trains auditors and assumes the duties of the Supervising Auditor, Taxation when required. He states that he assumed of the duties of a previous Auditor 1, Taxation, and that the job responsibilities listed on his own performance review emphasize advising, reviewing, and training subordinates.

In support of this appeal, Mr. Thummel's supervisor, a Supervising Auditor, Taxation, indicated that the appellant does not supervise a new auditor, but one who transferred from another team into the unit and required extra help. He states that the appellant was given the assignments of the previous Auditor 1, Taxation when he left due to a promotion. He states that Mr. Thummel requests work for himself and others, assigns work and reviews it, assists with questions and problems, approves and edits their reports, explains corrective actions, contributes to the overall performance evaluations, and assists with on-the-job training classes for new hires. He also states that Mr. Thummel performs his duties in his absence. The Assistant Chief of Audit Activity<sup>1</sup> states that she assigned these duties to the appellant after the previous Auditor 1, Taxation was promoted, and that these are the expectations for other Auditors 1, Taxation in the Gross Income Tax Audit Branch. She agrees with the duties indicated by the supervisor and the appellant. She adds that none of the Auditors 1, Taxation in this branch evaluate employees on their PARs.

Initially, the appellant's appeal was referred back to CPM for further review. Upon further review, CPM issued a determination dated September 4, 2014 which outlined the sequence of events regarding this appeal. It stated that it contacted the appellant's immediate supervisor in July 2014 and was advised that there had not been any substantive changes in the assigned duties and responsibilities performed by Mr. Thummel since the audit. Accordingly, CPM concluded again that the position was properly classified as Auditor 2, Taxation. Subsequently, Mr. Thummel was regularly appointed to the title Auditor 1, Taxation on September 20, 2014 from the eligible list for Auditor 1, Taxation (PS8544U). In a further submission, Mr. Thummel argues that the Auditor 1, Taxation title is not required to do performance reviews per the job specification. He reiterates that he provided input for the PARs of subordinates, and argues that he assigns and approves all work. He indicates that he supervised for a month when his supervisor was out of the office, and he restates his duties. He requests retroactive differential pay for his time as an "acting" Auditor 1, Taxation.

## CONCLUSION

The definition section of the job specification for Auditor 2, Taxation states:

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<sup>1</sup> Now the Chief of Audit Activity.

Under direction of a Supervising Auditor, Taxation, or Auditor 1, Taxation, Division of Taxation, Department of Treasury, takes the lead in (1) a group of auditors of lower grades engaged in field or office audits and/or examining and verifying of accounts and records, both internally and of taxpayers, with respect to various taxes administered by the division, or (2) independently handles field or office auditing or accounting work of considerable complexity and importance; may be assigned to either field or central office location as required; does related work as required.

The definition section of the job specification for Auditor 1, Taxation states:

Under direction of a Supervising Auditor, Taxation in the Division of Taxation, Department of Treasury, assists in supervising the field or office auditing work and/or examining and verifying of accounts and records, both internally and of taxpayers, with respect to various taxes administered by the division; may be assigned to either field or central office location as required; does related work as required.

In the instant matter, CPM found that the appellant's position was properly classified as an Auditor 2, Taxation as the primary focus of his duties was found to be conducting financial investigations and audits of considerable complexity. It also indicated that he has the responsibility of acting as a lead worker by advising and assisting other auditors. In that regard, leadership roles refer to persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. *See In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). The appellant argues on appeal that he assists in supervising the auditors, and he indicates that he provided input to performance reviews, as well as performed other types of assistance to the supervisor.

A review of the appellant's duties reveals that they are more closely aligned to the Auditor 1, Taxation title. On his position classification questionnaire, Mr. Thummel indicated that for 67% of the time he assisted his supervisor by assigning work, moving cases through the process, reviewing audits, keeping and reporting data for each auditor, assisting with the monthly report, assisting in training and attendance, and assuming the supervisor's role in his absence. For another 5% of the time he provided advice and training on specific issues. His job responsibilities are clearly focused on assisting with the supervision of auditing activities. Therefore, the appropriate classification of this position is Auditor 1, Taxation. As the appellant has already received a regular appointment to the subject title, the appellant should be provided with a retroactive provisional appointment and differential pay from the effective date of May 4, 2013, to the date the appellant was

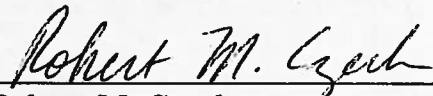
regularly appointed to Auditor 1, Taxation on September 20, 2014. *See N.J.A.C. 4A:3-3.9(e)3i.*

ORDER

Therefore, the position of David Thummel is properly classified as an Auditor 1, Taxation. It is ordered that appellant's position be reclassified to that title effective May 4, 2013, and he be provided with differential pay to September 20, 2014.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 4<sup>th</sup> DAY OF FEBRUARY, 2015

  
Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P. O. Box 312  
Trenton, New Jersey 08625-0312

Enclosures (2)

c: David Thummel  
Douglas Ianni  
Kenneth Connolly  
Joseph Gambino



Chris Christie  
*Governor*  
Kim Guadagno  
*Lt. Governor*

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P.O. Box 313  
Trenton, New Jersey 08625-0313  
(609 292-8189)

Robert M. Czech  
*Chair/Chief Executive Officer*

September 20, 2013

Mr. David Thummel  
Department of the Treasury  
Division of Taxation  
50 Barrack Street, 4<sup>th</sup> Floor  
PO Box 288  
Trenton, New Jersey 08695-0288

**RE: Classification Appeal – Auditor 2, Taxation**  
**CPM# 04130123, EID# 000375986**

Dear Mr. Thummel:

This is to inform you, and the Department of the Treasury, of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted and a telephone audit conducted with you, and your immediate supervisor William Kelly on July 26, 2013.

**Issue:**

You are appealing your current permanent title of Auditor 2 Taxation (P24) is not consistent your current assigned duties and responsibilities. You contend that the title Auditor 1 Taxation (R27) is consistent with the duties that you currently perform.

**Organization:**

According to the organizational chart that was submitted, your position is assigned to the Division of Taxation, Audit Activity, Individual Tax Audit Branch, Team B. You report directly to William Kelly, Supervising Auditor Taxation, and do not possess supervisory responsibility. A further review of the organizational chart

shows that the unit consists of three positions of (3) Auditor 2 Taxation and one (1) position of Auditor 3, Taxation.

**Finding of Fact:**

The primary responsibilities of your position include, but are not limited to the following:

- Assisting in the supervision of staff (in the absence of the Supervising Auditor Taxation).
- Performing complex audits and/or examinations and verification of internal and external accounts.
- Examining and verifying taxpayer's records and books of account in order to ensure compliance and determination of any outstanding tax liability or overpayment.
- Reviewing and revising reports of audits conducted by new Auditors.
- Training new Auditors in auditing, examination and/or verification procedures.
- Assisting with the compilation of statistics for various functions to be used in the monthly report which includes the audit figures for Team B's projects' assessments and no actions completed for the month.
- Interpreting statutes and/or regulations to state government employees, taxpayers, and/or others concerned with preparation of tax returns.

**Review and Analysis:**

Your position is currently classified by the title Auditor 2, Taxation (P24-50815). The definition section of the job specification for this title states:

"Under direction of a Supervising Auditor, Taxation, or Auditor I, Taxation, Division of Taxation, Department of the Treasury, takes the lead in (1) a group of auditors of lower grades engaged in field or office audits and/or examining and verifying of accounts and records, both internally and of taxpayers, with respect to various taxes administered by the division, or (2) independently handles field or office auditing or accounting work of considerable complexity and importance; may be assigned to either field or central office location as required; does related work as required."

The definition section of the job specification for Auditor 1, Taxation (R27-50817) states:

Mr. David Thummel

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"Under direction of a Supervising Auditor, Taxation, in the Division of Taxation, Department of the Treasury, assists in supervising the field or office auditing work and/or examining and verifying of accounts and records, both internally and of taxpayers, with respect to various taxes administered by the division; may be assigned to either field or central office location as required; does related work as required."

The Auditor 1, Taxation acts as a head of a large unit performing professional or field audit work. Additionally, incumbents in this position are responsible for: planning work for self and others; developing work methods; assigning work to subordinates; assisting them with problems; conducting formal on-the-job training; evaluating performance; taking corrective action; and reviewing, editing and/or certifying audit reports prepared in the unit. Also, in the absence of the Supervising Auditor, Taxation assumes those duties.

A review of your current job duties and responsibilities indicates that as a lead worker the position is primarily responsible for: examining and verifying taxpayer's records and books of account in order to ensure compliance and determination of any outstanding tax liability or overpayment; interpreting statutes and/or regulations to state government employees, taxpayers and others concerned with preparation of tax returns; training new Auditors in auditing, examination and/or verification procedures; and reviewing and revising reports of audits conducted by new Auditors.

The duties you perform are commensurate with the title Auditor 2, Taxation (P24).

**Determination:**

Based upon the findings of fact above, it is my determination that the assigned duties and responsibilities of your position are properly classified by your current permanent title Auditor 2, Taxation (P24-50815).

Please be advised that in accordance with *N.J.A.C. 4A:3-3.9*, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as

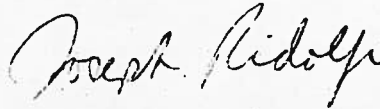
Mr. David Thummel

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well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Ridolfi".

Joseph Ridolfi, Team Leader  
Classification and Personnel Management

JR/rmd

c: Ms. Laura Budzinski, Treasury





Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P.O. Box 313  
Trenton, New Jersey 08625-0313  
(609) 292-8189

Robert M. Czech  
Chair/Chief Executive Officer

September 4, 2014

Mr. David Thummel  
[REDACTED]  
[REDACTED]

**RE: Classification Appeal – Department of the Treasury  
CSC Docket No. 2014-1026, No CPM Log Number**

Dear Mr. Thummel:

The Division of Appeals and Regulatory Affairs referred your classification appeal to the Division of Classification and Personnel Management for further analysis. This is to inform you of our determination concerning this classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted.

**Background:**

April 8, 2013 – You submitted a Classification Appeal arguing that your current permanent title of Auditor 2 Taxation (P25) is not consistent your current assigned duties and responsibilities. You contended that the title Auditor 1, Taxation (R27) was consistent with the duties that you performed.

July 29, 2013 -- A telephone desk audit was conducted with you and your immediate supervisor, Supervising Auditor Taxation. The major duties of the position under review at that time were ascertained from you and confirmed by your immediate supervisor. A review of your primary job duties and responsibilities found that your position is responsible for taking the lead in the training of two (2) positions of Auditor 3, Taxation. You were not responsible for preparing and/or signing Performance Assessment Reviews (PARs).

Mr. David Thummel

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September 20, 2013 – The Division of Classification and Personnel Management rendered a determination that the appropriate classification for your position was that of an Auditor 2, Taxation.

October 23, 2013 - You appealed the Division of Classification and Personnel Managements' determination to the Division of Appeals and Regulatory Affairs.

June 12, 2014 – You received a letter from the Division of Appeals and Regulatory Affairs closing their file and remanded the file back to the Division of Classification and Personnel Management for further analysis of their determination.

July 17, 2014 – The Division of Classification and Personnel Management contacted your immediate supervisor and were advised there have not been any substantive changes in the assigned duties and/or responsibilities that you perform.

After a careful review and analysis of the information provided, no substantial evidence exists in the assigned duties or responsibilities being performed that would alter the determination issued on September 30, 2013.

The assigned duties and responsibilities of your position are consistent with the established standards for incumbents functioning in the title Auditor 2, Taxation (P24-50815).

In conclusion, the position under review is properly classified as Auditor 2, Taxation (P24-50815).

**Determination:**

Based upon the findings of fact above, it is my determination that the assigned duties and responsibilities of your position are properly classified by your current permanent title Auditor 2, Taxation (P24-50815).

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, PO Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination as well as written

Mr. David Thummel

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documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in cursive script, reading "Joseph Ridolfi".

Joseph Ridolfi, Team Leader  
Classification and Personnel Management

JR/rmd

c: Mr. Douglas Ianni  
Ms. Laura Budzinski  
Ms. Rebecca Evans ✓